

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

In re:	)	
	)	CHAPTER 11
PHILIP JAY FETNER	)	
DBA PJF LIMITED PARTNERSHIP	)	
DBA COACHMEN FARMS, L.L.C.	)	
A/K/A P. JAY FETNER	)	
	)	CASE No. 17-13036-KHK
Debtor.	)	
<hr style="width: 30%; margin-left: 0;"/>	)	
	)	
WILMINGTON SAVINGS FUND	)	
SOCIETY, FSB, NOT IN ITS	)	
INDIVIDUAL CAPACITY BUT SOLELY	)	
AS TRUSTEE FOR BCAT 2017-19TT,	)	
	)	
Movant,	)	
v.	)	
	)	
PHILIP JAY FETNER	)	
DBA PJF LIMITED PARTNERSHIP DBA	)	
COACHMEN FARMS, L.L.C.	)	Filed Pursuant to 11 U.S.C. Section
A/K/A P. JAY FETNER	)	362(c)(4)(A)(ii)
	)	
Defendants.	)	

**MOTION SEEKING ORDER THAT PROPERTY IS NOT SUBEJCT TO THE  
AUTOMATIC STAY**

Comes now WILMINGTON SAVINGS FUND SOCIETY, FSB, NOT IN ITS  
INDIVIDUAL CAPACITY BUT SOLELY AS TRUSTEE FOR BCAT 2017-19TT (the  
“Movant”), a secured creditor, by Counsel, and moves this Honorable United States

---

Richard A. Lash  
Virginia Bar No. 25723  
BUONASSISSI, HENNING & LASH  
A Professional Corporation  
1861 Wiehle Avenue, Suite 300  
Reston, Virginia 20190  
Phone (703) 217-5602  
Fax (703) 796-9383  
e-mail: rlash@bhlpc.com  
*Counsel for BBR Investments, LLC*

Bankruptcy Court for an Order specifying that certain property is not part of Debtors bankruptcy estate and is therefore not subject to the automatic stay of 11 U.S.C. Section 362:

1. That Movant is a secured creditor whose claim is based upon a certain Note dated December 1, 2006 ("Note") in the principal amount of \$2,300,000.00 and executed by "PJF Limited Partnership by P. Jay Fetner, Limited Partner". The Note is included and incorporated as **Exhibit A**. Repayment of said Note is secured by that certain Deed of Trust dated December 1, 2006 and recorded on December 6, 2006 in Deed Book 1244 at Page 1260-1282 among the land records of Fauquier County, Virginia, which property has the address of 7476 Stoney Hill Lane, The Plains, VA 20198 ("Property"). The Deed of Trust is included and incorporated as **Exhibit B**.

2. That the Deed of Trust defines the "Borrower" as "PJF Limited Partnership".

3. That on September 7, 2017, the United States Bankruptcy Court for the Eastern District of Virginia entered an Order for Relief under 11 U.S.C. Chapter 11 upon a petition filed by Philip Jay Fetner ("Debtor"), dba PJF Limited Partnership, dba Coachmen Farms, L.L.C., a/k/a P. Jay Fetner, Case No. 17-13036-KHK.

4. That Debtor, in Official Form 106A/B (Document No. 14) filed on October 5, 2017, stated that the current value of the portion he owned in the Property was "\$0.00" and that the nature of his ownership in the Property was based on a "100% Equitable interest in PJF Limited Partnership, the owner of the Property".

5. That on September 18, 2018 Debtor filed Debtor, Philip Jay Fetner's Objection to Hotel Street Capital, LLC's Disclosure Statement (Document No. 132) and stated in paragraph 29, as grounds for such objection, that the Property is "owned by PJF Limited Partnership, a Virginia limited partnership, which is owned ninety-nine percent (99%) by the Fetner Trust as limited partner and one percent (1%) by Philip Jay Fetner as general partner."

6. That under Va. Code Ann. § 50-73.89 (1996), “[p]roperty acquired by a partnership is property of the partnership and not the partners individually.”

7. That Debtor further stated in paragraph 30 of Document No. 132 that “[t]he Debtor is not the owner of the real property known as 7476 Stoney Hill Lane, The Plains, Virginia and as such it is not a bankruptcy estate asset that can be sold by or through” a bankruptcy plan.

WHEREFORE, the Movant respectfully moves this Honorable United States Bankruptcy Court for entry of an Order pursuant to 11 U.S.C. Section 11 U.S.C. Section 362(c)(4)(A)(ii) (i) declaring that the above stated Property, known as 7476 Stoney Hill Lane, The Plains, Virginia 20198, is not part of Debtor’s bankruptcy estate, and (ii) that the above stated Property is not subject to the automatic stay as applicable to Debtor under 11 U.S.C. Section 362.

### **NOTICE OF MOTION**

Wilmington Savings Fund Society, FSB, Not In Its Individual Capacity but solely as Trustee for BCAT 2017-19TT has filed papers with the Court for an Order stating that the property located at 7476 Stoney Hill Lane, The Plains, VA 20198 is not subject to Debtor’s bankruptcy estate.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you do not want the Court to grant the relief sought in the motion, or if you want the Court to consider your views on the motion, then on or before the 14th day from the date of service of this Motion with three additional Court days allowed if all parties are not served electronically (service is the date that the Motion was mailed to you), you or your attorney must:

File with the court, at the address shown below, a written response pursuant to Local Bankruptcy Rule 9013-1(H). If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

Clerk of Court  
United States Bankruptcy Court  
Eastern District of Virginia

200 South Washington Street  
Alexandria, VA 22314

You must also mail a copy to:

Richard A. Lash  
Buonassissi, Henning & Lash, P.C.  
1861 Wiehle Avenue, Suite 300  
Reston, Virginia 20190

If you or your attorney do not take these steps, **the Court may decide you do not oppose the relief sought in the Motion and may enter an Order Granting that Relief without holding a hearing.**

**WILMINGTON SAVINGS FUND SOCIETY,  
FSB, NOT IN ITS INDIVIDUAL CAPACITY  
BUT SOLELY AS TRUSTEE FOR BCAT 2017-  
19TT**

By: /s/Richard A. Lash

**Richard A. Lash**

Virginia Bar No. 25723

E-mail: rlash@bhlpc.com

Phone (703) 796-1341, ext. 104

**Robert E. Kelly**

Virginia Bar No. 81746

Phone (703) 796-1341, ext. 114

E-mail: rkelly@bhlpc.com

**Douglas W. Callabresi**

Virginia Bar No. 68009

Phone (703) 796-1341, ext. 127

E-mail: Dcallabresi@bhlpc.com

**BUONASSISSI, HENNING & LASH, PC**

1861 Wiehle Avenue, Suite 300

Reston, Virginia 20190

Fax (703) 796-9383

*Counsels for Movant*

### **CERTIFICATE OF SERVICE**

I hereby certify that on the 27th day of September, 2018, a true copy of the foregoing Motion Seeking Order That Property is Not Subject to the Automatic Stay was mailed first-class, postage prepaid, to:

Philip Jay Fetner - Debtor  
dba PJF Limited Partnership  
dba Coachmen Farms, L.L.C.  
a/k/a P. Jay Fetner  
7476 Stoney Hill Lane  
The Plains, VA 20198

And electronically transmitted to:

John T. Donelan - Counsel for Debtor  
Law Office of John T. Donelan  
125 S. Royal Street  
Alexandria, VA 22314

Judy A. Robbins - U.S. Trustee  
Office of the U.S. Trustee- Region 4  
115 South Union Street, Room 210  
Alexandria, VA 22314

John P. Fitzgerald, III - U.S. Trustee  
Office of the U.S. Trustee- Region 4  
115 South Union Street, Room 210  
Alexandria, VA 22314

Jack Frankel - Counsel for U.S. Trustee  
Office of the U.S. Trustee  
115 South Union Street, Room 210  
Alexandria, VA 22314

/s/Richard A. Lash  
Richard A. Lash

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

In re:	)	
	)	CHAPTER 11
PHILIP JAY FETNER	)	
DBA PJF LIMITED PARTNERSHIP	)	
DBA COACHMEN FARMS, L.L.C.	)	
A/K/A P. JAY FETNER	)	
	)	CASE No. 17-13036-KHK
Debtor.	)	
_____	)	
	)	
WILMINGTON SAVINGS FUND	)	
SOCIETY, FSB, NOT IN ITS	)	
INDIVIDUAL CAPACITY BUT SOLELY	)	
AS TRUSTEE FOR BCAT 2017-19TT,	)	
	)	
Movant,	)	
v.	)	
	)	
PHILIP JAY FETNER	)	
DBA PJF LIMITED PARTNERSHIP DBA	)	
COACHMEN FARMS, L.L.C.	)	
A/K/A P. JAY FETNER	)	
	)	
Defendants.	)	

**ORDER THAT PROPERTY IS NOT SUBJECT TO THE AUTOMATIC STAY**

Upon consideration of Wilmington Savings Fund Society, FSB, Not in its Individual Capacity but Solely as Trustee for BCAT 2017-19TT's Motion Seeking Order That Property is Not Protected by Automatic Stay, it is

ORDERED that the Property, known as 7476 Stoney Hill Lane, The Plains, Virginia 20198, is not part of Debtor Philip Jay Fetner's bankruptcy estate, and

ORDERED that the above stated Property is not subject to the automatic stay as applicable to Debtor under 11 U.S.C. Section 362.

Date: \_\_\_\_\_

\_\_\_\_\_  
Klinette H. Kindred  
United States Bankruptcy Judge

Alexandria, Virginia

I ASK FOR THIS:

By: /s/Richard A. Lash

**Richard A. Lash**

Virginia Bar No. 25723

E-mail: rlash@bhlpc.com

Phone (703) 796-1341, ext. 104

**Robert E. Kelly**

Virginia Bar No. 81746

Phone (703) 796-1341, ext. 114

E-mail: rkelly@bhlpc.com

**Douglas W. Callabresi**

Virginia Bar No. 68009

Phone (703) 796-1341, ext. 127

E-mail: Dcallabresi@bhlpc.com

**BUONASSISSI, HENNING & LASH, PC**

1861 Wiehle Avenue, Suite 300

Reston, Virginia 20190

Fax (703) 796-9383

*Counsels for Movant*

COPIES TO:

Philip Jay Fetner  
dba PJF Limited Partnership  
dba Coachmen Farms, L.L.C.  
a/k/a P. Jay Fetner  
7476 Stoney Hill Lane  
The Plains, VA 20198

John T. Donelan  
Law Office of John T. Donelan  
125 S. Royal Street  
Alexandria, VA 22314

Judy A. Robbins  
Office of the U.S. Trustee- Region 4  
115 South Union Street, Room 210  
Alexandria, VA 22314

John P. Fitzgerald, III  
Office of the U.S. Trustee- Region 4  
115 South Union Street, Room 210  
Alexandria, VA 22314

Jack Frankel  
Office of the U.S. Trustee  
115 South Union Street, Room 210  
Alexandria, VA 22314